

<b>TO: Mail Stop 8</b> <b>Director of the U.S. Patent and Trademark Office</b> <b>P.O. Box 1450</b> <b>Alexandria, VA 22313-1450</b>	<b>REPORT ON THE</b> <b>FILING OR DETERMINATION OF AN</b> <b>ACTION REGARDING A PATENT OR</b> <b>TRADEMARK</b>
---	---

In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court Southern District of Texas, Houston Division on the following

☐ Trademarks or ☒ Patents ( ☐ the patent action involves 35 U.S.C. § 292 );

DOCKET NO. 4:11-cv-2714	DATE FILED 7/22/2011	U.S. DISTRICT COURT Southern District of Texas, Houston Division
PLAINTIFF Downhole Products PLC		DEFENDANT Top-Co LP
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 US 6, 435, 275 B1	8/20/2002	A copy of the complaint is being mailed with this form.
2		
3		
4		
5		

In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY	<input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1		
2		
3		
4		
5		

In the above—entitled case, the following decision has been rendered or judgement issued

DECISION/JUDGEMENT
--------------------

CLERK <b>DAVID J. BRADLEY</b>	(BY) DEPUTY CLERK 	DATE 7/25/2011
----------------------------------	--	-------------------

Copy 1—Upon initiation of action, mail this copy to Director    Copy 3—Upon termination of action, mail this copy to Director  
 Copy 2—Upon filing document adding patent(s), mail this copy to Director    Copy 4—Case file copy

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

DOWNHOLE PRODUCTS PLC,	)	
	)	
Plaintiff,	)	CIVIL ACTION NO.
	)	
v.	)	_____
	)	
TOP-CO LP,	)	JURY TRIAL DEMANDED
	)	
Defendant.	)	

COMPLAINT

Plaintiff DOWNHOLE PRODUCTS PLC ("Downhole" or "Plaintiff") states the following for its Complaint against Defendant TOP-CO LP ("Top-Co" or "Defendant"):

NATURE AND BASIS OF ACTION


1. This is an action in which Downhole asserts against Top-Co claims for patent infringement arising under the United States Patent Act, 35 U.S.C. § 1, et seq. Downhole seeks monetary damages and permanent injunctive relief against Top-Co.

PARTIES

2. Downhole is a Texas corporation, having its principal place of business at 4140 World Houston Parkway, Suite 160, Houston, Texas 77032.

3. On information and belief, Top-Co is a Canadian corporation, having its principal place of business at 7720 - 17 Street, Edmonton, AB T6P 1S7.

4. On information and belief, Top-Co has a place of business at 3443 North Sam Houston Parkway West, Suite 200 Houston, TX 77086.

**TRUE COPY I CERTIFY**  
**ATTEST:**  
**DAVID J. BRADLEY, Clerk of Court**  
By  Deputy Clerk

JURISDICTION AND VENUE

5. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1338.

6. Venue in this Court is proper under 28 U.S.C. §§ 1391 and 1400.

7. On information and belief, defendant Top-Co has transacted business within this judicial district, has committed tortious acts within this judicial district, has committed tortious injury to Downhole in this judicial district, regularly does or solicits business in this judicial district, derives revenue from goods used or consumed or services rendered in this judicial district, engages in other persistent courses of conduct in this judicial district, and is subject to the jurisdiction of this Court. Further, on information and belief, Top-Co has interactive websites that are used in and/or accessible within this judicial district.

FACTUAL BACKGROUND

U.S. Patent No. 6,435,275

8. On August 20, 2002, the United States Patent and Trademark Office issued United States Patent No. 6,435,275 ("the '275 Patent"), entitled "Casing Centraliser" to inventors Ian Alastair Kirk, William Barron, and Alistair Bertram Clark. A true and correct copy of the '275 Patent is attached hereto as Exhibit A.

9. The '275 Patent is currently in full force and effect.

10. All right, title, and interest in and to the '275 Patent have been assigned to Downhole Products PLC, which is the sole owner of the '275 Patent.

11. The '275 Patent includes eighteen claims generally directed to a casing centralizer comprising a plastic material.

12. In accordance with 35 U.S.C. § 282, the '275 Patent, and each and every claim thereof, is presumed to be valid.

DEFENDANT'S CONDUCT

13. On information and belief, Top-Co makes, uses, offers to sell, and/or sells within the United States and this judicial district products, including but not limited to centralizers, which include and/or practice one or more of the inventions claimed in the '275 Patent.

14. On information and belief, Top-Co's infringing products include at least the Type 346 Top Reach Glider centralizer.

COUNT ONE: TOP-CO'S INFRINGEMENT  
OF THE '275 PATENT UNDER 35 U.S.C. § 271

15. Downhole repeats, realleges, and incorporates by reference, as if fully set forth herein, the allegations of the preceding paragraphs, as set forth above.

16. On information and belief, Top-Co has infringed and continues to infringe, has actively and knowingly induced and continues to actively and knowingly induce infringement of, and/or has contributed to and continues to contribute to acts of infringement of one or more claims of the '275 Patent, all in violation of 35 U.S.C. §§ 271(a), (b), and/or (c).

17. Top-Co's acts of making, using, offering for sale, and selling products that use, include, and/or practice one or more of the inventions claimed in the '275 Patent have been without the permission, consent, authorization, or license of Downhole.

18. As a result of Top-Co's infringing acts, Downhole has been and continues to be damaged in its business and property, and thus Downhole is entitled to recover damages for Top-Co's infringing acts, which in no event can be less than a reasonable royalty.

19. On information and belief, Top-Co's infringing acts are, have been, and continue to be willful, with knowledge of the '275 Patent, and in willful, wanton, and deliberate disregard thereof.

20. As a result of Top-Co's infringing acts, Downhole has been and continues to be irreparably injured unless and until Top-Co's continuing acts are restrained and enjoined by this Court, and Downhole has no adequate remedy at law.

21. Downhole is entitled to injunctive relief enjoining and restraining Top-Co, its officers, agents, servants, and employees, acting jointly or severally, and all persons acting in concert with it, and each of them, from further infringement, inducement of infringement, and/or contributory infringement of the '275 Patent.

PRAYERS FOR RELIEF

WHEREFORE, Downhole respectfully prays for entry of a judgment as follows:

A. Finding that Top-Co has infringed, induced infringement of, and/or contributorily infringed one or more claims of the '275 Patent, all in violation of 35 U.S.C. § 271;

B. Permanently enjoining Top-Co, its officers, agents, servants, representatives, and employees, and all persons acting in concert with them, and each of them, from infringing, inducing the infringement of, and contributorily infringing the '275 Patent;

C. Awarding Downhole damages for Top-Co's infringement, inducement of infringement, and/or contributory infringement of the '275 Patent;

D. Finding that Top-Co's infringement, inducement of infringement, and/or contributory infringement of the '275 Patent has been knowing and willful;

E. Increasing all damages awarded to Downhole in this case to three times the damages amount found by the jury or assessed by the Court pursuant to 35 U.S.C. § 284;

F. Declaring this case to be an exceptional case and awarding Downhole its attorneys' fees pursuant to 35 U.S.C. § 285;

G. Awarding Downhole costs and prejudgment interest pursuant to 35 U.S.C. § 284; and

H. Granting Downhole such other and further relief as the Court deems just, proper, and equitable.

DEMAND FOR JURY TRIAL

DOWNHOLE hereby demands a trial by jury on all issues in this action that are so triable as a matter of right and law.

Respectfully submitted, this 22nd day of July, 2011.

*Julie A. McWhirter*

---

Julie A. McWhirter  
(Texas Bar No. 00794224)  
(S.D.T.X. Admission No. 20860)  
A. Shane Nichols  
(Texas Bar No. 24063267)  
(application to S.D.T.X. pending)  
KING & SPALDING LLP  
1100 Louisiana, Ste. 4000  
Houston, TX 77002  
Telephone: (713) 751-3201  
Facsimile: (713) 751-3290  
Email: snichols@kslaw.com

C. Suzanne Werner  
(application to S.D.T.X. pending)  
KING & SPALDING LLP  
1180 Peachtree Street, N.E.  
Atlanta, Georgia 30309  
Telephone: (404) 572-4600  
Facsimile: (404) 572-5134  
Email: swerner@kslaw.com

# **EXHIBIT A**